

Chair David Ure
Director Kevin Carter

Board of Trustees
School & Institutional Trust Lands Administration
Salt Lake City, Utah
August 21, 2014

Minutes

Attending:	Board	Staff
	David Ure	Kevin Carter
	Louie Cononelos	Kim Christy
	Jim Lekas	Tom Faddies
	Tom Bachtell	Lisa Schneider
	Scott Rupper	LaVonne Garrison
	Lonnie Bullard	Rodger Mitchell
	Mike Mower	Ron Carlson
		Deena Loyola
		John Andrews
		Elise Erler
		Kyle Pasley
		Rick Wilcox
		Nannette Johnson

Others in Attendance:

Tim Donaldson, Utah State Office of Education
Aaron Garrett, Utah State Office of Education
Paula Plant, Utah State Office of Education
Don Rosenbaum, Utah State Hospital
Margaret Bird, Universities
Jonathan Bates, University of Utah
Trudy Henderson, UEA
Jim Riley, SITLA Contractor
Brian Maffly, Salt Lake Tribune
Newell Harward, Wayne County Commissioner

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1. Welcome

Chairman David Ure welcomed those in attendance. He also complimented staff for audit results with a “No Concerns” finding.

2. Approval of Board Minutes

The Board approved the minutes of the last meeting held on June 20, 2014.

“I move we approve the minutes of June 20, 2014.”

Motion: Lekas/Mower Unanimous

Roll Call:

Dave Ure – yes Louie Cononelos – yes Jim Lekas – yes Tom Bachtell – yes
Scott Ruppe – yes Lonnie Bullard – yes Mike Mower – yes

3. Oath of Office for Mr. Lonnie M. Bullard

Chairman Ure administered the Oath of Office for Lonnie M. Bullard as the recently appointed member of the SITLA Board of Trustees. Mr. Bullard is expected to serve through June 2020. Mr. Bullard discussed how his professional background and his previous role as a Board member would be useful to him in his current appointment to the Board of Trustees.

4. Confirmation of Upcoming Meeting Dates

September 18	Salt Lake City
October 22-23	West Desert Tour
November 20	Salt Lake City
December	No Meeting
January 22	Salt Lake City

Director Carter reviewed the remaining meeting dates for 2014. A meeting for January 22 was added to future meeting dates. The annual budget presentation will be provided at the September meeting. The Board will attend a tour in Utah’s West Desert on October 22 and return to Salt Lake City for a meeting on October 23.

5. Public Comment Period

The Board revisited this agenda item later in the meeting when Commissioner Harward arrived.

6. Consent Calendar

Consent

a. Dammeron Valley Development Lease

In the absence of any discussion to the contrary, this action will proceed as presented.

b. Sun River Amendment

Tom Bachtell asked for the price of the land relative to the amendment. There was no additional discussion; therefore, this item will proceed as presented.

c. Cloudrock Assignment

In the absence of any discussion to the contrary, this action will proceed as presented.

d. ~~Potash Block OBA for Oil & Gas~~

This item was removed from the agenda prior to the meeting.

Notification

e. Love's Travel Plaza Sale

There were no comments on this item.

f. Lion's Back Exchange

There were no comments on this item.

g. Coral Canyon Land Sale

There were no comments on this item.

h. Sale in Green Spring Area 0.29 Acre

There were no comments on this item.

Follow-up after Six Months

i. Potash Ridge OBA Agreement - - Revision of Terms

There were no comments on this item.

j. Oil & Gas OBA for the Bonanza Block Uintah Co

There were no comments on this item.

7. Chair's Report - - Beneficiary Report: Study of Our Customers

Aaron Garrett gave presentation from the beneficiaries entitled "SITLA'S Top Customers." The presentation brought to light the companies with which SITLA does business and was a companion presentation to the prior month's report on the largest future opportunities for the trust. The presentation highlighted the largest sources of revenue for SITLA over the past five years, broken out by business group. Of note is that the leases to Kerr McGee covering the Natural Buttes field provided approximately 1/5th of the trust's revenue since FY2010. Mr. Garrett also highlighted an innovative transaction joining the Surface and Development groups with the Division of Wildlife Resources which brought in over \$13 million in revenue in FY2014, and for which SITLA earned the Governor's Award for Excellence. The PowerPoint presentation is available on the [Utah Public Notice Website](#).

Mike Mower asked where grazing fit into revenue collections. Kim Christy provided details for the surface group to say there is about one-million dollars annually in grazing revenue. Revenue also comes from distribution of Wildlife access fees.

Louie Cononelos asked about timber clearing for lumber from trees fallen by pine beetle damage. Mr. Christy confirmed there are timber contracts underway on Tabby Mountain.

8. Director's Report

a. Land Exchange Update

John Andrews presented an update on land exchange issues noting that additional exchange negotiations will be discussed later in closed session.

President Obama signed the Hill Creek Cultural Preservation Energy Development Act passed by Congress. The act allows SITLA to relinquish 18,000 acres of land in the south portion of the Hill Creek extension of the Ute Reservation and select replacement land from BLM minerals in the northern part of the Hill Creek Extension. When the parties are ready to develop an agreement for the land exchanges SITLA will likely seek outside counsel for a specialist in mineral develop on Tribal Lands. Mr. Andrews expressed the sense of excitement and enthusiasm from SITLA and the Tribe to work through the selections process.

A new process for land exchange is being presented before congress on behalf of the western states. The process is designed to facilitate exchanges for western state land administration offices and is called, Advancing Conservation and Education (ACE) Act H.R. 4901. Congressman Bishop and Congressman DeFazio introduced ACE as bi-partisan legislation. Successful results will allow western states to relinquish land owned in Federal Conservation areas and select replacement lands without requiring a return to Congress for each transaction.

Congressman Bishop is also attempting to negotiate a settlement of public land and wilderness issues in the eastern half of Utah. The agency will want to have an opportunity to exchange out of the conservation areas and into areas to make money for the beneficiaries. Various counties recognize long-term value in an exchange of land that leads to lucrative oil and gas production with benefit to the counties through the Land Exchange Distribution Account (LEDA).

In Grand County, the BLM has a master leasing plan, which is a public process to identify land for oil and gas development and lands disqualified for environmental or recreational use. Grand County has convened a working group and invited SITLA to participate. John Andrews and LaVonne Garrison are identifying land for oil and gas production with Grand County.

Mike Mower referred to land exchanges and complimented John Andrews and Director Carter, along with staff, for accomplishments made with exchanges. He expressed appreciation for the efforts that benefit SILTA's mission and create a synergy for all western states.

Lonnie Bullard asked if there was a single factor to identify why some states are successful with exchanges and some are less successful. John Andrews noted that exchanges have been a priority for Utah.

Chairman Ure returned to the agenda item for "Public Comment" agenda item to allow Commissioner Harward to speak.

Wayne County Commissioner, Newell Harward discussed concern for the Bishop Proposal in Utah and potential wilderness designation. He also addressed concern for a purchase by The Nature Conservancy of SITLA land near Parker Mountain for prairie dog habitat. Wayne County is opposed to the purchase as it brings more government control of land in the county.

Chairman Ure said the request for consideration puts SITLA in a peculiar situation with a balancing act for beneficiaries, landowners, and a mission to make money.

Director Carter spoke to the possible purchase by The Nature Conservancy, which is likely a negotiated sale that meets the criteria to come before the Board for approval. In 99% of issues, the goals of the agency align with the counties. It is troubling when the mutual benefit with local leaders is not inherent in a sale. If the agency were to act in a manner contrary to its mandate, the land will be mistaken for public lands and that cannot happen.

Margaret Bird asked if a statute remained in place to require that no more federal land be acquired in Utah. Ms. Bird then asked if there is a way for an exchange with The Nature Conservancy. Director Carter said a negotiated sale is more likely to result in the land ending up in private ownership.

Kim Christy discussed endangered species in the federal domain. Federal land counts in terms of how habitat is assessed for consideration before a listing. The only avenue for The Nature Conservancy is to purchase SITLA land because to purchase federal land does not resolve the conservation concern.

Chairman Ure committed to keep Commissioner Harward's concerns in mind during further research. He also asked for understanding in the event that SITLA has no choice but to proceed with a sale.

Tom Bachtell said the agency has always demonstrated a commitment to communication with local leadership.

Director Carter asked the Board to consider a closed session to continue exchange discussions and for transaction negotiations.

"I move we go into closed session for the purpose of a strategy session to discuss the purchase, exchange, or lease of real property."

Motion: Ruppe/Cononelos Unanimous

Roll Call:

Dave Ure – yes	Louie Cononelos – yes	Jim Lekas – yes	Tom Bachtell – yes
Scott Ruppe – yes	Lonnie Bullard – yes	Mike Mower – yes	

Present for closed session were Board Members David Ure, Louis Cononelos, James Lekas, Tom Bachtell, Scott Ruppe, Lonnie Bullard and Mike Mower. Also present were Kevin Carter, John Andrews, Tim Donaldson, Aaron Garrett, Paula Plant, Tom Faddies, LaVonne Garrison, Kim Christy, and Nannette Johnson.

The Board returned to open session for a public discussion of water purchases as a public entity.

"I move we return to open session to proceed with the agenda."

Motion: Ruppe/Bachtell Unanimous

Roll Call:

Dave Ure – yes	Louie Cononelos – yes	Jim Lekas – yes	Tom Bachtell – yes
Scott Ruppe – yes	Lonnie Bullard – yes	Mike Mower – yes	

8. Director's Report

b. Personnel Discussion

This agenda item was delayed to the end of the meeting for discussion in closed session.

9. Review and Approval of Capital Budget Projects for Development

This agenda item was rescheduled for the September Board meeting and further discussion.

10. Roundtable Discussion "Water Acquisition"

Present in open session for an introductory discussion on water acquisition were Board members David Ure, Louis Cononelos, James Lekas, Tom Bachtell, Scott Ruppe, Lonnie Bullard and Mike Mower. Also present were Kevin Carter, Jim Riley, Ron Carlson, Deena Loyola, Tom

Faddies, Lisa Schneider, Rick Wilcox, John Andrews, Kim Christy, Rodger Mitchell, Kyle Pasley, LaVonne Garrison, Trudy Henderson, Margaret Bird, Jonathan Bates, Elise Erler, Tim Donaldson, Paula Plant, Aaron Garrett, and Nannette Johnson

Tom Bachtell explained there are potential water sites throughout the state. He said what is important to know is if SITLA stands as a municipality to hold water for future purposes.

Director Carter defined the traditional water rights in the State of Utah as a right to hold the water for up to seven years. If the water is not put to use then the right can be lost. There are certain municipalities and other water entities that can hold water longer. The State Engineer identified SITLA as a municipality for the purpose of water rights. The definition allows SITLA to hold water longer, similar to a municipality.

Scott Ruppe further defined the right by explaining the agency will have to show a purpose to hold the water right for an extended number of years.

Jim Riley is a SITLA consultant on water management. He joined the conversation to help the Board understand state policy regarding water right use. A municipality is able to hold onto unperfected rights if it can show that the water is needed for future growth. They show this with a 40-Year Plan, which must be submitted to the State Engineer for review. Perfected rights can also be held to meet the reasonable demand of the public. These policies and laws are designed so that no person or municipality can hold the water for speculative purposes. There must be a reasonable probability that there is a purpose beyond simply holding the water so that it cannot be used by anyone else.

Chairman Ure asked if the water had to be for a culinary use. Mr. Riley said, "No." The rights also recognize water use for industrial purposes. SITLA falls within the public water rights umbrella. Recognition as a public entity allows SITLA to acquiring water rights for future use. Mr. Riley felt SITLA could identify a 40-year plan for future use.

Lonnie Bullard asked about an eventual transaction including a sale of SITLA land to a private developer who would acquire both the land and the water right. Rather than SITLA supplying water rights to an eventual user, SITLA would be transferring the water right along with the purchase of ground for development.

Scott Ruppe explained that if SITLA had the ability to develop the land themselves and make use of the water the right would be correctly held under the definition of the State Engineer. If SITLA sells land to a developer, rather than develop the land, the water right would be a valuable part of the sale and can be transferred to a private developer in a land purchase.

Louie Cononelos asked for clarification for an acquisition of water by SITLA. He asked if the water would have to be used within a specific hydro-geological water basin. Jim Riley confirmed that the water would have to be used within the area that the water originated. Mr. Cononelos asked if the acquisition would have to identify a specific hydro-geologic basin for a specific project or a natural resource mineral development. Jim Riley said it is a good question to take to the State Engineer for complete clarification.

Director Carter explained that the interpretation did not entitle SITLA to assert any kind of reserved water right. The agency will actually have to acquire the right to retain the acquisition for a future use.

Chairman Ure asked if there were more statements to be made in the public forum. Director Carter provided explanation that the majority of current water rights are for livestock or agricultural. The agency has banked water rights in the past with a city, planning for future use in a real estate project. That was before this interpretation by the State Engineer that SITLA qualifies as an entity that can hold water by similar terms as a municipality.

Scott Ruppe provided historical information describing a push to relinquish water rights that are not being put to beneficial use. Municipalities debated the action to say that it cannot apply to a city because it will limit the growth and the ability to project. That is how the determination was made that public entities can hold water without putting it to beneficial use right away. The discussion with the State Engineer explored SITLA's qualification as a public entity. The answer was yes, but SITLA must specify future use to qualify like a municipality.

Kim Christy noted that SITLA has two substantial water rights on the eastern side of the state for 500-acre-feet, acquired from Flaming Gorge water. SITLA is currently putting that to use through an agricultural lease. There is another 200-acre-feet of water tied to the Range Creek area which came to SITLA in a land exchange with DWR. These two water rights can be used in the entire Colorado River Basin area, which is essentially the eastern half of the state. In the event of the Lake Powell Water Pipeline completion, the water rights will have nexus to Washington County.

Scott Ruppe provided background information for the Flaming Gorge water rights by saying when it was determined the last phase of the Central Utah Water Project would not be built, the Bureau of Reclamation offered 450,000-acre-feet of water to entities along the Green River. The total water put to use in the Uintah Basin was approximately 36,000 acres. The state wanted to put in a pipeline to St. George. The Flaming Gorge water was offered in blocks, which led to SITLA getting 400-acre-feet in the Big Water area. Washington County got a large share, too.

Tom Bachtell asked if there is a possibility to make use of excess water from a lease when the project does not use all of the water they can access. Director Carter said SITLA has filed joint applications with a lessee and at the end of a project; the water rights belong to SITLA.

Scott Ruppe pointed out that water rights do not come with land ownership. The water right is acquired separately.

The Board went into closed session for further discussion of water rights acquisition.

"I move we go into closed session for the purpose of a strategy session to discuss the purchase, exchange, or lease of real property."

Motion: Cononelos/Lekas Unanimous

Roll Call:

Dave Ure – yes	Louie Cononelos – yes	Jim Lekas – yes	Tom Bachtell – yes
Scott Ruppe – yes	Lonnie Bullard – yes	Mike Mower – yes	

Present for closed session were Board members, Dave Ure, Louie Cononelos, Jim Lekas, Tom Bachtell, Scott Ruppe, Lonnie Bullard, Mike Mower, Director Carter, John Andrews, Kim Christy, Jim Riley, Tim Donaldson, Aaron Garrett, Paula Plant, and Nannette Johnson.

The Board returned to open session to end the discussion of water rights acquisition and introduced the next item of discussion.

“I move we return to open session to progress to the next agenda item.”

Motion: Cononelos/Lekas Unanimous

Roll Call:

Dave Ure – yes Louie Cononelos – yes Jim Lekas – yes Tom Bachtell – yes

Scott Ruppe – yes Lonnie Bullard – yes Mike Mower – yes

“I move we go into closed session for the purpose of a personnel discussion.”

Motion: Bachtell/Mower Unanimous

Roll Call:

Dave Ure – yes Louie Cononelos – yes Jim Lekas – yes Tom Bachtell – yes

Scott Ruppe – yes Lonnie Bullard – yes Mike Mower – yes

Present for a personnel discussion in closed session were Board members, Dave Ure, Louie Cononelos, Jim Lekas, Tom Bachtell, Scott Ruppe, Lonnie Bullard, Mike Mower, and Kevin Carter. (Mike Mower left during the closed session to attend another meeting.)

The Board returned to open session and adjourned the meeting.

“I move we return to open session and adjourn.”

Motion: Cononelos/Ruppe Unanimous

Roll Call:

Dave Ure – yes Louie Cononelos – yes Jim Lekas – yes Tom Bachtell – yes

Scott Ruppe – yes Lonnie Bullard – yes